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10/063,187

03/28/2002

Mark Jeffries

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07/30/2004

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EXAMINER

JACKSON, ANDRE L

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/063,187

Applicant(s)

JEFFRIES, MARK

Examiner

Andre' L. Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-25 and 36-42 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 10, 11, 14-16, 19, 26-28 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 7-9, 12, 13, 17, 18, 20, 21, 29, 30, 34 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 29, 2004 has been entered.

### Drawings

The drawings (correction to Figs. 6 and 11) were received on February 24, 2004. The Examiner approves these drawings.

### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 6, 10, 11, 14-16, 19, 26-28 and 31-33 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 6,065,917 to Shambeau et al. Shambeau et al discloses an D-ring anchor device for use with a cargo bed of a vehicle, comprising;

a d-shaped ring member including a curved leg (48) and a base (46), and at least one tab (52) integrally connected to the d-ring member at the base forming a unitary handle structure, the

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d-ring member rotatably coupled to a substrate/faceplate member (34) and the at least one tab is a single tab connected to the d-shaped ring member such that when pressure is applied thereto, the d-shaped ring member moves outward.

As to claims 5, 6, 27 and 32, as seen in Fig. 2, the tab is formed at a top edge of the base longitudinally disposed and projecting outward at an angle relative to the base. Further, it can be seen that the tab includes outer edges that taper in a rounded or concave manner merging into the top edge of the base.

As to claim 10, although in the preferred embodiment the d-shape ring member is cylindrical in shape, Shambeau states that other geometries could be used, including a rectangular shape (col. lines 58-64).

#### **Allowable Subject Matter**

Claims 22-25 and 36-42 are allowed.

Claims 3, 4, 7-9, 12, 13, 17, 18, 20, 21, 29, 30, 34 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose all of the limitations as a whole as set forth in applicant's claims. In particular, the prior art does not disclose or suggest a d-ring handle comprising a d-shape ring member having a curved leg and a base and unitary in construction, a foot member including a pair of opposed supports to actuate a latch member and at least one tab

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connected to the base, wherein when pressure is applied to the tab, the d-shape ring member moves outward.

Hansen (393), Teskey (678) and Schlack (970) all disclose rotatable latch handles having a d-shaped ring member similar to applicant's claim, however, none of these references, at the least, disclose or suggest a tab (pressure tab) such that when the tab is pushed or actuated, pivot movement occurs moving the d-shaped ring member outward or a foot member including a pair of opposed supports as claimed.

Esaki et al (735) teaches a door locking handle assembly comprising a handle member pivotally attached to a casing. A finger engaging projection is disposed on a base end portion of the handle and in use, is pushed by a user to swing the handle outward. However, Esaki et al alone, does not meet all of the limitations in applicant's claims, namely a d-shaped ring member having a curved leg and a base with a foot member including a pair of opposed supports as claimed. Consequently, none of the prior art of references above cures the deficiencies of the other.

### **Response to Applicant's Arguments**

Applicant's arguments filed in the amendment on April 29, 2004 have been fully considered but they are not persuasive. In response to applicant's remarks on pages 12-14 of the above amendment, #6,065,917 to Shambeau et al has been cited, which anticipates the structural limitations of applicant's claims found rejected. Accordingly, claims 1, 2, 5, 6, 10, 11, 14-16, 19, 26-28 and 31-33 are rejected as being unpatentable over Shambeau et al. Claims 22-25 and 36-42 are allowed over the prior art, while claims 3, 4, 7-9, 12, 13, 17, 18, 20, 21, 29, 30, 34 and 35 are objected to.

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### Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (703) 605-4276. The examiner can normally be reached on Mon. - Fri. (10 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALJ

André L. Jackson  
Patent Examiner  
AU 3677



ROBERT J. SANDY  
PRIMARY EXAMINER